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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,076	10/21/2005	Toshio Tahira	63,128 (70904)	1859
21874	7590	12/02/2010		
EDWARDS ANGELL PALMER & DODGE LLP			EXAMINER	
P.O. BOX 55874			HORNING, JOEL G	
BOSTON, MA 02205				
		ART UNIT	PAPER NUMBER	
		1712		
		MAIL DATE	DELIVERY MODE	
		12/02/2010	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/529,076

Applicant(s)

TAHIRA ET AL.

Examiner

JOEL G. HORNING

Art Unit

1712

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 October 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 59-62.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/David Turocy/
Primary Examiner, Art Unit 1715

/JOEL G HORNING/
Examiner, Art Unit 1712

Continuation of 3. NOTE: The claims have been amended to require that the light emission region be "bounded by" the barrier structure instead of "between" the barrier structures. They have also been amended to require that the light emission layer be "as flat as possible" instead of just "flat." These new limitations need to be considered for how they change the scope of the claims and further search would be required to see what art (if any) would read upon them, as well as to see if they are new matter or produce indefiniteness to the claims. For instance, what degree of flatness is possible?

Continuation of 11, does NOT place the application in condition for allowance because: on page 6 of their remarks, applicant comments that their specification discloses that the drops utilized in the application (when treated as applicant's have claimed) dried immediately. The implication is that this immediately drying of the drops is inherently present when the process is performed as claimed. However, this feature is not present in the claim language, and although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Additionally, if the immediate drying is inherent when the claimed features are performed, it would necessarily be present if the obvious process present in the rejection were performed.

Applicant then argues that the geometry of Seki would not read upon the requirement that the light emitting material be between the barriers because they have different elevations as discussed by the examiner in the arguments. However, the claim does not require that the layer material be between the barriers. The claim actually requires that the "light emitting layer formation region" be between the barriers. It is reasonable to consider this region to be the planar region of the substrate where the light emitting layers are to be deposited, and these regions are clearly found in figure 7 of Seki to be between the places where the barriers are.

Applicant then argues that the applied rejection does not require that the light emitting layer be "as flat as possible." Since the amendments to the claims were not entered, this limitation is no currently found in the claims.

Applicant then argues that some inkjet devices would have difficulty ejecting fluid of the claimed viscosity. However, this is not a convincing evidence to show that these viscosities would not be used in order to deposit very small droplets (where it needs to be very difficult to eject the fluid in order to eject a very small amount of fluid).

Applicant then argues that the barrier material 12 of Seki has an additional layer 13 deposited on top of it to form a bank and that the layers should be considered together as the barrier not as separate barriers. However, the claims do not exclude depositing additional barrier layers nor does it require that the light emitting material be higher than all such barrier layers if they were present, so the argument is not convincing. Putting this another way, if the applicant had subsequently claimed the presence of an additional barrier layer on top of the first barrier layer which reaches higher than the light emitting layer, does it create a contradiction in the claims?

Regarding applicant's arguments that that light emitting material overlaps the SiO₂ material of Seki and regarding the thicknesses of different layers, the claims do not discuss these features, so it is not sufficient to overcome the rejections.